IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

CLETIS B. GOODMAN,)
Plaintiff,) 8:12CV202
vs.) ORDER
STATE OF NEBRASKA, SEWARD COUNTY, NEBRASKA, SEWARD COUNTY SHERIFF'S DEPARTMENT, and JENNIFER STEHLICK LADMAN,))))
Defendants.)

This matter is before the court *sua sponte*, and pursuant to <u>NECivR 41.2</u>, which states in pertinent part: "At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution." Further, <u>Fed. R. Civ. P. 4(m)</u> establishes a 120-day time limit for service of process on the defendant in a civil case, absent a showing of good cause.

In this case the complaint was filed on June 12, 2012. **See** Filing No. 1. The plaintiff sought summonses in September and October, 2012, serving the defendants, except for the State of Nebraska, on October 1, 2012. No evidence exists in the record whether the plaintiff has served the State of Nebraska. On November 14, 2012, the plaintiff stipulated with the defendants Seward County, Nebraska; Seward County Sheriff's Department; and Jennifer Stehlick Ladman to amend the complaint. **See** Filing No. 15. The court gave the plaintiff until December 3, 2012, to file the amended complaint. **See** Filing No. 16. On December 3, 2012, the parties again stipulated to an extension of time to amend. **See** Filing No. 17. The court gave the plaintiff until December 5, 2012, as requested, to file the amended complaint. **See** Filing No. 18. The court gave the defendants Seward County, Nebraska; Seward County Sheriff's Department; and Jennifer Stehlick Ladman until fourteen days after the amended complaint was filed to file their answers. No amended complaint, answer, or any other document has been filed in the case.

It remains the plaintiff's duty to go forward in prosecuting the case. Under the circumstances, the plaintiff must make a showing of good cause for the failure of timely service or the action must be dismissed against the defendant State of Nebraska. Furthermore, the plaintiff shall file the amended complaint forthwith or show cause why sanctions, to the extent allowed by Fed. R. Civ. P. 37, should not be imposed for failure to comply with this court's orders. Upon consideration,

IT IS ORDERED:

The plaintiff has until the close of business **on January 4, 2013**, to (1) file evidence of service or show cause why this case should not be dismissed for failure to prosecute the defendant State of Nebraska, and (2) file the amended complaint or show cause why sanctions should not be imposed for failure to comply with this court's orders.

Dated this 27th day of December, 2012.

BY THE COURT:

s/ Thomas D. Thalken United States Magistrate Judge